



Home Office

Country Policy and Information Note

Turkey: Kurdistan Workers' Party (PKK)

Version 2.0

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Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country information

COI in this note has been researched in accordance with principles set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#) and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), namely taking into account its relevance, reliability, accuracy, objectivity, currency, transparency and traceability.

All information is carefully selected from generally reliable, publicly accessible sources or is information that can be made publicly available. Full publication details of supporting documentation are provided in footnotes. Multiple sourcing is normally used to ensure that the information is accurate, balanced and corroborated, and that a comprehensive and up-to-date picture at the time of publication is provided. Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source is not an endorsement of it or any views expressed.

Feedback

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Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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Policy guidance

Updated: 1 August 2017

1. Introduction

1.1 Basis of claim

1.1.1 Fear of persecution or serious harm by the state because of the person's actual or perceived membership of, or association with, the Partiya Karkerên Kurdistanê (Kurdistan Workers' Party) (PKK) and/or its affiliates.

1.2 Points to note

1.2.1 For the purposes of the policy guidance in this note, the PKK includes affiliated groups unless otherwise stated. For information about these groups, see [PKK and affiliates](#) in the country information section.

1.2.2 For claims based on involvement with Kurdish political parties, see the country policy and information note on [Turkey: Kurdish political parties](#).

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2. Consideration of issues

2.1 Credibility

2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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2.2 Exclusion

2.2.1 The PKK and its affiliated groups have been responsible for numerous serious human rights abuses. The PKK is banned in Turkey and designated as a terrorist organisation, has been proscribed in the UK since March 2001 under the Terrorism Act 2000 and is also on the European Union list of terrorist organisations (see [PKK and affiliate forces](#) and [PKK related violence](#)).

2.2.2 If there are serious reasons for considering the person has been involved with the group then decision makers must consider whether any of the exclusion clauses are applicable.

2.2.3 If the person is excluded from the Refugee Convention, they will also normally be excluded from a grant of humanitarian protection.

2.2.4 For further guidance on the exclusion clauses, discretionary leave and restricted leave, see the Asylum Instructions on [Exclusion under Articles 1F](#)

[and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and the instruction on [Restricted Leave](#).

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2.3 Assessment of risk

a. PKK members and supporters

- 2.3.1 In July 2015 a ceasefire between the government and the PKK collapsed. Since then there has been a large escalation of violence committed by the PKK and PKK-affiliated groups. In response the government has stepped up extensive security and military operations against the PKK, including air strikes on their bases in both Turkey and Iraq. The PKK have expanded the conflict to the cities of western Turkey, committing large-scale deadly terrorist acts in Ankara and Istanbul (see [PKK related violence](#)).
- 2.3.2 Concerns have been expressed, including by international organisations, that Turkey's anti-terror law is excessive in scope. Despite a number of reforms of the anti-terror laws, concerns exist about its scope and definitions. The law does not distinguish between persons who incite violence and those who allegedly support the use of violence but do not use it, and those who reject violence but sympathize with some or all of the philosophical goals of various political movements (see [Law on fight against terrorism](#)).
- 2.3.3 Under the state of emergency which was introduced in Turkey following the failed coup attempt in July 2016, the authorities are able to detain individuals for up to 30 days without charge and deny them access to legal advice for up to five days (see [Fair trial](#)). Whilst many people suspected of belonging to the PKK have been arrested by the authorities the majority are released after being officially questioned (see [Numbers of arrests and detentions](#)).
- 2.3.4 Whilst there has been criticism regarding the independence of the judiciary, there is also evidence that the courts act independently of government and that in terrorism cases there have been a number of cases where the Courts have found the accused not guilty of the offence (see [Fair trial](#)).
- 2.3.5 In the aftermath of the failed coup in July 2016, there was an increase in cases of torture and other ill-treatment reported in police detention, from curfew areas in southeast Turkey. However, following a visit to Turkey at the end of 2016, the UN Special Rapporteur on torture noted that, although testimonies suggested that torture was widespread in the days and weeks immediately following the failed coup attempt, it seemed to have ceased after this initial phase (see [Conditions in detention](#) and the country policy and information note on [Turkey: Prison conditions](#)).
- 2.3.6 The Turkish government has a legitimate right to act against terrorism - including acts committed by the PKK and its affiliates - and to use all lawful and proportionate means to do so. This includes seeking to prosecute those who belong, or profess to belong to, or invite support for the organisation.
- 2.3.7 Members of and those associated with the PKK are likely to face prosecution, rather than persecution on return to Turkey and are unlikely to demonstrate a need for international protection.

2.3.8 Decision makers must also consider whether there are any individual factors which indicate that any prosecution would deny the person access to a fair trial and whether any punishment would be either disproportionate or discriminatory on the basis of the person's political opinion.

b. Relatives of members or supporters

2.3.9 It is likely that relatives of known members or supporters of the PKK would face questioning by the Turkish authorities and possibly some police harassment or discrimination, there is no evidence that it is in general sufficiently serious by its nature or repetition that it will reach the high threshold of being persecutory or otherwise inhuman or degrading treatment.

2.3.10 However, each case must be considered on its individual facts. The onus is on the person to show that on the particular facts of their case, they are at real risk of serious harm and that this amounts to persecution on the basis of their actual or imputed political beliefs.

2.3.11 For further guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.4 Protection

2.4.1 As the person's fear is of persecution or serious harm by the state they will not be able to avail themselves of the protection of the authorities.

2.4.2 For further guidance on assessing the availability of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.5 Internal relocation

2.5.1 As the person's fear is of persecution or serious harm by the state they will not be able to internally relocate to escape that risk.

2.5.2 For further guidance on internal relocation and the factors to be considered, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.6 Certification

2.6.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

2.6.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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3. Policy summary

- 3.1.1 The PKK and its affiliates have been responsible for numerous serious human rights abuses and it is proscribed in the UK under the Terrorism Act 2000.
- 3.1.2 If there are serious reasons for considering the person has been involved with the group then decision makers must consider whether any of the exclusion clauses are applicable.
- 3.1.3 Members and those associated with the PKK and its affiliates are likely to face prosecution, rather than persecution, on return to Turkey on the grounds of membership or support of an armed terrorist organisation.
- 3.1.4 Although relatives of members or supporters of the PKK are likely to face questioning and possibly some police harassment or discrimination, this will not in general amount to persecution or serious harm. However, each case must be considered on its individual facts.

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Country information

Updated: 11 July 2017

4. Partiya Karkerên Kurdistanê (PKK) and affiliates

4.1 Partiya Karkerên Kurdistanê (Kurdistan Workers' Party) (PKK)

4.1.1 The US Department of State, in its 2015 Country Report on Terrorism dated 2 June 2016 ('the USSD's 2015 Terrorism Report'), described the PKK as:

'Founded by Abdullah Ocalan in 1978 as a Marxist-Leninist separatist organization, the Kurdistan Workers' Party (PKK) was designated as a Foreign Terrorist Organization on October 8, 1997 [by the US government]. The group, composed primarily of Turkish Kurds, launched a campaign of violence in 1984.

'The PKK's original goal was to establish an independent Kurdish state in southeastern Turkey, but in recent years it has spoken more often about autonomy within a Turkish state that guarantees Kurdish cultural and linguistic rights'.¹

4.1.2 According to Jane's Sentinel Security Assessment:

'The PKK was renamed the Kurdistan Freedom and Democracy Congress (Kongra Azadî û Demokrasiya Kurdistan: KADEK) in April 2002, after claiming it had accomplished its mission. KADEK announced its dissolution in October 2003 and was re-established as the Kurdistan People's Congress (Kongra Gelê Kurdistan: KONGRA-GEL). The armed wing of KADEK - the People's Defence Force (Hezen Parastina Gel: HPG) - remained active. In early 2004, KONGRA-GEL split, with militants taking control of the organisation while others broke away to form a new political party. In April 2005, the group was restructured and resumed calling itself the PKK, or the 'new' PKK.

'Originally established as a Marxist-Leninist group, seeking to promote a communist revolution in Turkey, the PKK subsequently embraced Kurdish nationalism and the goal of creating an independent Kurdish state. In February 2005, the organisation redefined its theoretical objectives and announced that it was fighting to establish the Group of Communities in Kurdistan ([Koma Civakên Kurdistan: KCK](#)), a supra-national pyramidal structure of representative committees and assemblies co-ordinated under a People's Congress (KONGRA-GEL). In practice, the PKK's immediate objectives are greater cultural and political rights for Turkey's Kurdish minority, including the amendment of the Turkish constitution to include an explicit recognition of a Kurdish identity, a comprehensive amnesty for PKK militants, the participation of the PKK leadership in active politics in Turkey, and an amelioration of the prison conditions for the PKK leader Abdullah Öcalan leading eventually to his release. Following the initiation of the peace process in March 2013, the PKK adopted a strategy of shifting its effort from

¹ United States Department of State. 'Country Reports on Terrorism 2015'. (Page 383). 2 June 2016. <https://www.state.gov/documents/organization/258249.pdf> Accessed: 6 June 2017.

remote mountainous areas to urban centres in the country's southeast. This strategy has been carried out primarily by the front organisation of the [Patriotic Revolutionary Youth Movement \(Yurtsever Devrimci Gençlik Hareketi: YDG-H\)](#).²

4.1.3 A BBC News profile of the PKK published on 4 November 2016 stated:

'In a BBC interview in April [2016] the PKK's military leader Cemil Bayik said "we don't want to separate from Turkey and set up a state".

"We want to live within the borders of Turkey on our own land freely... The struggle will continue until the Kurds' innate rights are accepted," he said.

'Turkey continues to accuse the PKK of "trying to create a separate state in Turkey".

'More than 40,000 people have died in the conflict. It reached a peak in the mid-1990s, when thousands of villages were destroyed in the largely Kurdish south-east and east of Turkey. Hundreds of thousands of Kurds fled to cities in other parts of the country.

'In the 1990s, the PKK rolled back on its demands for an independent state, calling instead for more autonomy for the Kurds.

'The PKK suffered a major blow in 1999 when its leader, Abdullah Ocalan, was arrested and jailed for treason.

'In March 2013, he called a ceasefire and urged PKK forces to withdraw from Turkey. But that ceasefire broke down in July 2015.'³

4.1.4 The USSD's 2015 Terrorism Report stated:

'From January to mid-July 2015, the PKK carried out small-scale armed attacks against Turkey's security forces and military bases, which killed at least two security personnel. From mid-July to the end of 2015, more than 180 security personnel died from PKK-attributed attacks. On July 24 [2015], Turkish security forces launched large-scale operations against the PKK, as well as operations against ISIL-affiliated targets. Turkish military [carried out] airstrikes against PKK camps, shelters, underground bunkers and weapon emplacements in Turkey's southeast and Northern Iraq...'⁴

4.1.5 The same source continued:

'South-eastern Turkey has been wracked by violence since the ceasefire with the PKK collapsed [in 2015].

'The Turkish air force regularly carries out air strikes against PKK bases in mountainous northern Iraq.

'The Turkish government has ruled out any negotiations until the group completely disarms.

² Jane's Sentinel Security Assessment. 'Turkey : Non-State Armed Groups'. 3 February 2017. Subscription source. Copy available on request. Accessed: 7 June 2017.

³ BBC News. Who are Kurdistan Workers' Party (PKK) rebels? 4 November 2016. <http://www.bbc.co.uk/news/world-europe-20971100>. Accessed: 6 June 2017.

⁴ United States Department of State. 'Country Reports on Terrorism 2015'. (Page 156). 2 June 2016. <https://www.state.gov/documents/organization/258249.pdf> Accessed: 6 June 2017.

'There have been many PKK attacks on Turkish security forces in the south-east.

'In August 2016 a PKK car bomb in Cizre killed 11 policemen and injured 78. Hundreds of people have died in more than a year of clashes in Turkey's Kurdish-majority region.

'The PKK is listed as a terrorist organisation by Turkey, the EU and US.

'Human rights groups say many civilians have died during Turkey's anti-PKK offensive in the south-east. Turkey has imposed curfews and used heavy armour in urban areas in its fight with the rebels.'⁵

4.1.6 According to Jane's Sentinel Security Assessment:

'[D]ay-to-day leadership of the PKK, [...] is handled by senior commanders based in the group's headquarters in the Qandil Mountains in northern Iraq, including Murat Karayilan and Cemil Bayik, both of whom are veteran field commanders and members of the Kurdistan Communities Union (Koma Civakên Kurdistan: KCK) Executive Committee. Other PKK commanders believed by the authorities to be influential within the group include Fehman Huseyin, Nurettin Halef al-Muhammad (the current head of the PKK's armed wing, who is also known as "Sofi Nurettin"), Sabri Ok, Bahoz Erdal, and Duran Kalkan.'⁶

4.1.7 The US State Department's Human Rights Practices Report, released in March 2017 covering events in 2016 ('the USSD's 2016 report'), stated 'The government alleged the PKK continued to recruit and forcibly abduct children for conscription purposes. An April 24 [2016] government report claimed that the PKK abducted children from urban areas of the Southeast, estimating that 40 percent of the group's rural or mountain divisions were underage, with almost 10 percent under age 15. The government alleged the PKK had used children as suicide bombers.'⁷

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4.2 Koma Civakên Kurdistan (Kurdistan Communities Union) (KCK)

4.2.1 The PKK, with other political and armed groups, belongs to a Kurdish umbrella organisation, the Kurdistan Communities Union (Koma Civakên Kurdistan – KCK). According to a March 2015 article by the Daily Sabah:

'KCK, an organization founded by Kongra-Gel (Kurdistan People's Congress), has been functioning as an umbrella organization covering the Kurds of Turkey, Iran, Iraq and Syria since they were formed in 2005.

'There are five main subdivisions of the KCK: the ideological front, the social front, the political front, the military front and the women's division. In addition to the PKK, some political parties are included in the organization

⁵ BBC News. 'Who are Kurdistan Workers' Party (PKK) rebels?' 4 November 2016. <http://www.bbc.co.uk/news/world-europe-20971100>. Accessed: 6 June 2017.

⁶ Jane's Sentinel Security Assessment. 'Turkey : Non-State Armed Groups'. 3 February 2017. Subscription source. Copy available on request. Accessed: 7 June 2017.

⁷ United States Department of State, '2016 Country Reports on Human Rights Practices – Turkey', (1g. Abuses in Internal Conflict). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265482> Accessed: 7 June 2017.

such as the PJAK (The Free Life Party of Kurdistan) in Iran and the PYD (Democratic Union Party, in Kurdish) in Syria, as well as civil society organizations, and the PKK's armed wing, the HPG (People's Defense Forces, in Kurdish). In Iraq the party is called the PÇDK (Kurdistan Democratic Solution Party).⁸

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4.3 Halkların Birleşik Devrim Hareketi (People's United Revolutionary Movement) (HBDH)

4.3.1 On 12 March 2016, ANF News reported that a PKK-led umbrella organisation, the People's United Revolutionary Movement (Halkların Birleşik Devrim Hareketi (HBDH), comprising nine illegal leftist and pro-Kurdish extremist groups was established, led by senior PKK leader Duran Kalkan. The HBDH was created to represent extreme leftist militancy, opposing the Turkish state and the AKP. Its mission is 'to unite and strengthen Turkey's revolutionary forces and promote armed struggle against the Turkish government'. Its means are said to be propaganda and terrorist attacks through unified efforts of different groups.⁹

4.3.2 The following organizations were reported as being party to the alliance: ^{10 & 11}

- TKP/ML (Communist Party of Turkey/Marxist-Leninist)
- PKK (Kurdistan Workers' Party)
- THKP-C/MLSPB (Front-Liberation Party of the People of Turkey / Marxist-Leninist Armed Propaganda Unit)
- MKP (Maoist Communist Party)
- TKEP-L (Communist Labour Party of Turkey-Leninist)
- TİKB (Revolutionary Communist League of Turkey)
- DKP (Revolutionary Communist Party)
- Devrimci Karargâh (Revolutionary Headquarter)
- MLKP (Marxist-Leninist Communist Party (Turkey/North Kurdistan))

4.3.3 Since its formation HBDH have carried out a number of violent attacks:

- In May 2016 'HBDH announced that its members carried out the action against the Gendarme Base in Giresun's Çaldağ region. HBDH stated

⁸ Daily Sabah. 'KCK: A historic step towards peace'. 1 March 2015. <https://www.dailysabah.com/politics/2015/03/01/kck-a-historic-step-towards-peace> Accessed: 6 June 2017.

⁹ ANF News, Peoples' United Revolutionary Movement established for a joint struggle, 12 March 2016. <http://www.anfenglish.com/news/peoples-united-revolutionary-movement-established-for-a-joint-struggle>. Accessed: 6 June 2017.

¹⁰ ANF News, Peoples' United Revolutionary Movement established for a joint struggle, 12 March 2016. <http://www.anfenglish.com/news/peoples-united-revolutionary-movement-established-for-a-joint-struggle>. Accessed: 6 June 2017.

¹¹ Red News. Declaration of the establishment of 'HBDH' of the Revolutionary Communist and Progressive Alliance of Turkey and Kurdistan'. '28 June 2016. <https://lalshongbad.wordpress.com/tag/peoples-united-revolutionary-movement-hbdh/> Accessed: 7 June 2017.

that 3 gendarmes died during the action and the Base Commander got critically injured and later died at a hospital.¹²

- HBDH claimed responsibility for the action that targeted riot police in the Black Sea province of Trabzon on 19 July 2016.^{13 & 14}

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4.4 Yekîneyên Parastina Sivîl (Civil Defense Units) (YPS) & Yurtsever Devrimci Gençlik Hareket (Patriotic Revolutionary Youth Movement) (YDG-H)

4.4.1 The November 2016 EASO Country of Origin Information Report ('the November 2016 EASO report'), citing various sources, stated:

'The PKK affiliate forces consist of the Civil Defense Units (YPS), the youth branch of PKK, formerly known as the Patriotic Revolutionary Youth Movement (Yurtsever Devrimci Gençlik Hareket (YDG-H)). These forces, deployed by the PKK in the cities, consist of a small number of trained militants – including some who gained experience of urban warfare from fighting against ISIS during the 2014-15 siege of Kobanî – supplemented by a larger number of young, mostly relatively untrained, volunteers.

'According to the mission conducted by EuroMed Rights and FIDH in January 2016, since the resurgence of the conflict (July 2015), 'the strategy of the PKK and its affiliated forces, in particular the Patriotic Revolutionary Youth Movement (YDG-H, the youth branch of PKK), has been to occupy all or parts of cities and to "remove" them from civil government rule by isolating them through trenches and barricades'. This strategy has had severe consequences for the population which has served as a de facto shield for Kurdish fighters.'¹⁵

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4.5 Kurdistan Freedom Falcons or Teyrenbazen Azadiya Kurdistan (TAK)

4.5.1 The November 2016 EASO report, citing various sources, stated:

'The Kurdistan Freedom Falcons (Teyrênbazê Azadiya Kurdistan, TAK) is a very secretive Kurdish separatist organisation that seeks independence or autonomy in south-east Turkey. TAK says that it was a part of PKK, but has left the group because it denounced the PKK's methods as 'too feeble'. According to other sources it is still part of PKK, as an urban warfare unit. According to [International Crisis Group] ICG, '[f]ormed as a breakaway faction of the PKK in August 2004, the group is designated a terrorist

¹² ANF News. 'HBDH claims responsibility for the action in Giresun'. 8 May 2016.

<https://anfenglish.com/news/hbdh-claims-responsibility-for-the-action-in-giresun-14785>. Accessed: 7 June 2017.

¹³ ANF News. 'HBDH: 11 riot police killed in Trabzon'. 21 July 2016.

<https://anfenglish.com/news/hbdh-11-riot-police-killed-in-trabzon-15702> Accessed: 7 June 2017.

¹⁴ Hurriyet Daily News. 'Three police officers killed in attack in Turkey's north'. 19 July 2016.

<http://www.hurriyetdailynews.com/three-police-officers-in-killed-in-attack-in-turkeys-north.aspx?pageID=238&nID=101788&NewsCatID=341> Accessed: 7 June 2017.

¹⁵ European Asylum Support Office. 'EASO Country of Origin Information Report Turkey Country Focus'. (Section 4.2 Actors in the conflict) November 2016. http://www.ecoi.net/file_upload/2162_1479371775_easo-coi-turkey-201611.pdf Accessed: 6 June 2017.

organisation linked to the PKK by the Turkish state; the U.S. designated it as a separate terrorist organisation in 2008’.

‘Explaining the split from PKK on its website, banned in Turkey, the group declares the ‘methods of struggle’ of the PKK and the Kurdistan People’s Congress ‘too feeble’. The TAK’s goal is an independent Kurdish state in eastern and south-eastern Turkey. According to some Turkish security analysts, Bahoz Erdal is the TAK’s leader, although this is not verified .

‘The group started its public operations in 2005 when it exploded a bomb in a tourist location, in Kuşadası. From 2005 onwards TAK launched more deadly attacks. Although acknowledging that little is known about TAK, the Jamestown Foundation indicated, in 2006, that there are important ideological differences between the PKK and the TAK. While the PKK has mainly attacked military and government targets, TAK has spread its attacks wider, claiming responsibility for strikes on civilian, police and military targets. According to the Jamestown Foundation, ‘the geographical spread of TAK attacks also suggests that its members live in Kurdish migrant communities in western Turkey and in Istanbul, rather than in the Kurdish heartlands of the southeast that were the focus of PKK actions’. It added that the PKK statements, striving for negotiations, are now more carefully chosen whereas the TAK’s statements are ‘deliberately uncompromising’.

‘In 2010 TAK carried out two attacks, one on a bus of Turkish soldiers and their families, and the other on a police vehicle. Since 2015, it seems that activities of the TAK have become more intensive. The group has claimed responsibility for a mortar attack that killed one worker at Istanbul Sabiha Gokcen Airport in December 2015. In 2016, TAK also claimed responsibility for an attack on a military convoy in Ankara (17 February) that killed 28 people, a car bomb attack in Ankara (13 March) that killed 37 people, and a car bomb (7 June) that destroyed a police vehicle in the Istanbul Vezneciler neighbourhood, killing 12 people and wounding dozens more. The group claimed that the June attack had been carried out in retaliation for Turkish Army operations in south-eastern Turkey, and it warned tourists to stay away from the country.’¹⁶

4.5.2 According to Jane's Sentinel Security Assessment:

‘The TAK has the goal of creating an independent Kurdish state. Given its tendency to indiscriminately target crowded civilian areas, the TAK’s tactics have drawn criticism from the PKK leadership, on the grounds that they alienate foreign sympathisers to the Kurdish cause and risk the PKK losing its perceived moral high ground as the defender of an oppressed minority. PKK leaders have claimed that the TAK was a splinter group that broke away from the PKK. According to Turkish police sources, however, the TAK was but a front for the PKK, providing a scapegoat that allows the latter to avoid the political costs of attacks yielding civilian casualties.

¹⁶ European Asylum Support Office. ‘EASO Country of Origin Information Report Turkey Country Focus’. (Section 4.2 Actors in the conflict) November 2016. http://www.ecoi.net/file_upload/2162_1479371775_easo-coi-turkey-201611.pdf Accessed: 6 June 2017.

'The group's operations have been distinguished by its primary focus on Istanbul and western Turkey. Furthermore, the organisation has demonstrated a capacity for high-impact attacks, often involving C-4 explosives and with a tendency to indiscriminately target crowded civilian areas. One such attack was the October 2010 suicide bombing at one of Istanbul's tourist attractions, Taksim Square, wounding 32 people, in apparent rejection of a ceasefire between the PKK and the government. Similarly, in September 2011, the group staged a vehicle-borne improvised explosive device (VBIED) attack in Kizilay, Ankara, killing three and wounding 34 others. The group's most recent high-profile attack was in 21 August 2012, a VBIED assault that killed 10 people and wounded 68 others in a crowded civilian area in the Gaziantep city centre. The group's relative inactivity since 2012 indicates a low probability of renewed attacks.'¹⁷

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5. Situation in the east and south-east

5.1 PKK related violence

- 5.1.1 The Human Rights World Report 2017 noted that "[t]he PKK and a related armed group, the Kurdistan Freedom Falcons (TAK), stepped up attacks in 2016, including a March [2016] suicide attack killing 37 in central Ankara, and a June [2016] attack in Istanbul killing 11, as well as regular attacks on military and police targets."¹⁸
- 5.1.2 Amnesty International, in their 2016/17 report similarly stated: 'There was a sharp increase in indiscriminate attacks and attacks directly targeting civilians, showing contempt for the right to life and the principle of humanity. IS, PKK, its offshoot Kurdistan Freedom Falcons (TAK) and Revolutionary People's Liberation Party-Front were blamed or claimed responsibility for the attacks.'¹⁹
- 5.1.3 In its 2016 Progress Report on Turkey (which covered the period from October 2015 to September 2016), the European Commission reported that:
- 'The situation in the region in the reporting period was marked by further escalation of violence by the terrorist Kurdistan Workers' Party (PKK) and PKK-affiliated groups. The PKK remains on the EU list of terrorist organisations. The government continued extensive security and military operations against the PKK, including air strikes on their bases in both Turkey and Iraq. The PKK responded partly by expanding the conflict to the cities of western Turkey, committing large-scale deadly terrorist acts in Ankara and Istanbul. The EU firmly condemned these terrorist acts. The government has a legitimate right to act against terrorism but is responsible for ensuring that this fight fully respects human rights, fundamental freedoms and obligations under international law.

¹⁷ Jane's Sentinel Security Assessment. 'Turkey : Non-State Armed Groups'. 3 February 2017. Subscription source. Copy available on request. Accessed: 7 June 2017.

¹⁸ Human Rights Watch. 'World Report 2017'. (Turkey). 12 January 2017. <https://www.hrw.org/world-report/2017/country-chapters/turkey>. Accessed: 7 June 2017.

¹⁹ Amnesty International. 'Amnesty International Report 2016/17'. 22 February 2017. <https://www.amnesty.org/download/Documents/POL1048002017ENGLISH.PDF>. Accessed: 7 June 2017.

'The Government pledged to continue security operations, dismissing any prospect of a resumption of the talks with the PKK, unless the terrorists surrendered arms and pulled the militants out of Turkey's territory. Long-lasting, round-the-clock curfews were imposed in several cities; these severely disrupted citizens' daily lives and impeded access to healthcare and education. Most of these curfews have now been lifted, but they were followed by others. Between July 2015 and September 2016, over 1 500 people – of which 320 civilians, including 75 children and over 600 security force members – have been killed and 1 600 were injured in clashes between the security forces and the PKK.'²⁰

5.1.4 The USSD's 2016 report stated:

'In addition to conducting deadly terror attacks throughout the year [2016], the PKK and affiliates declared autonomy and dug trenches in some cities in the Southeast. The government responded with active security operations in the country's Southeast. The government issued curfews in dozens of urban neighborhoods throughout the Southeast, usually giving residents of these areas only hours to abandon their homes prior to the launch of counter-PKK security operations. Those who remained faced 24-hour curfews, sometimes for weeks or even months at a time, as well as extremely difficult living conditions while government-PKK clashes took place, at times involving heavy artillery. Medical services were sometimes unable to reach persons in distress. Human rights groups reported that hundreds of civilians were killed, while thousands were rendered homeless. Multiple sources, including the government, asserted that the PKK forced noncombatants to act as human shields, exacerbating civilian casualties.

'The government reported that, in the first eight months of the year [2016], 208 civilians died and 1,259 civilians were injured by PKK-related violence. According to data from security institutions and media reports, as of year's end, PKK-related incidents and operations resulted in the deaths of 637 security personnel, including 398 soldiers, 187 police, and 52 village guards (renamed "security guards" by decree in October). PKK tactics included assault with conventional weapons, vehicle-borne bombs, suicide bombing attacks, and improvised explosive devices (IEDs). At times IEDs or unexploded ordinance, usually attributed to the PKK, killed or maimed civilians. The HRA [Human Rights Association] reported that, in the first nine months of the year, IEDs generally attributed to the PKK killed two adults and eight children, and injured 29, including 21 children.

'On June 18 [2016], President Erdogan claimed that more than 7,600 PKK terrorists were "neutralized" in nationwide and cross-border operations since July 2015, a figure disputed by some experts.

'The HRA maintained that security officers killed 317 civilians and injured 130 in arbitrary killings throughout the country in the first nine months of the year, including at government checkpoints, deaths in government-PKK violence (for example, the Cizre basement incident described below), and

²⁰ European Commission. 'Commission Staff Working Document: Turkey 2016 Report'. 9 November 2016. (Page 28-29) https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf. Accessed: 7 June 2017.

excessive use of force in crowd control. The HRA linked the majority of these deaths to the government's fight against the PKK in the Southeast.

'PKK-related attacks also claimed the lives of police officers and civilians in Ankara, Istanbul, and other cities throughout the year. On March 13 [2016], a vehicle-borne bomb in central Ankara claimed 37 lives and injured 125. On December 10 [2016], a double suicide bombing attack in Istanbul killed 44 and injured more than 150 outside Istanbul's Vodafone Stadium at the conclusion of a soccer match. The Kurdistan Freedom Falcons, a PKK affiliate, claimed responsibility for these attacks and several more throughout the year.

'PKK attacks also targeted political figures. On August 25 [2016], a PKK attack on a convoy belonging to the leadership of the opposition Republican People's Party (CHP) in Artvin killed one soldier and injured two others. On September 11 [2016], the PKK announced it intended to target government-appointed trustees installed to replace elected mayors removed for alleged ties or providing support to the PKK. Between September 11 and November 11 [2016], the PKK carried out at least six attacks on political targets, killing two and injuring dozens. On September 12 [2016], a PKK car bomb attack targeting local AKP offices and the provincial governorship in Van injured 48 persons.

'The PKK continued to abduct both officials and civilians throughout the year. The government reported that through September, the PKK kidnapped 74 civilians and six village security guards. The HRA alleged as of December 23 [2016], the PKK was holding 31 soldiers and police officers hostage.'²¹

5.1.5 The same source also noted:

'The PKK's use of asymmetric warfare and security forces' use of heavy artillery in urban environments led to extensive damage in some urban areas in the Southeast. Large sections of Diyarbakir's historic Sur district, Cizre, Nusaybin, and Yuksekova were heavily damaged. The government subsequently bulldozed many of the damaged buildings without collecting evidence that might have otherwise helped clarify the source of the damage and casualties.'²²

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5.2 Government human rights violations

5.2.1 In its 2016 Progress Report on Turkey (which covered the period from October 2015 to September 2016), the European Commission reported that:

'There were many credible reports of alleged severe human rights violations committed by the security forces, including torture, ill-treatment, arbitrary arrests and breaches of procedural rights. Legislation regulating the burial of dead bodies of unidentified persons, which was amended twice in the

²¹ United States Department of State, '2016 Country Reports on Human Rights Practices – Turkey', (1g. Abuses in Internal Conflict). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265482> Accessed: 7 June 2017.

²² United States Department of State, '2016 Country Reports on Human Rights Practices – Turkey', (1g. Abuses in Internal Conflict). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265482> Accessed: 7 June 2017.

reporting period, reportedly prevented proper forensic examinations needed for thorough judicial investigations. There were alarming reports of damage to cultural, historical and religious heritage sites during the curfews, including in the Sur district in Diyarbakır. Disproportionate destruction of private and communal property and infrastructure by heavy military artillery, as in Cizre, is a cause for serious concern. An estimated 355,000 people have been internally displaced. The expropriation of Sur District in March [2016] for the purpose of reconstruction further raised tensions in the city. Lack of official information or follow-up on all allegations of human rights violations is extremely worrying. All allegations of human rights violations need to be duly investigated, their perpetrators brought to justice and redress made available to victims.²³

5.2.2 The same source continued:

'The effect of the curfews and alleged severe human rights violations were denounced by UN Committee Against Torture (CAT) and the Commissioner for Human Rights of the Council of Europe following his visit to the region. Unimpeded access to the region by independent investigators is urgently needed. The Venice Commission found that the declarations of curfew were not in line with the Constitution or with Turkey's international commitments and recommended review of the relevant legislation. A petition for a temporary injunction on frequent days-long curfews was rejected by the ECtHR due to insufficient data. The Constitutional Court rejected an application for a similar injunction. The judgement by ECtHR on the substantive application regarding curfews is pending. Many civil society initiatives and petitions called for a resumption of the Kurdish settlement process. A declaration of protest signed by more than a thousand academics was severely suppressed by the authorities and led to numerous arrests, dismissals and trials. In the aftermath of the attempted coup, a large number of Kurdish teachers have been suspended over alleged links to terrorism. 33 mayors were suspended over alleged terrorist ties or links to the Gülen movement, including the co-mayors of Diyarbakır who were subsequently arrested. Trustees were assigned to these municipalities by decree issued under the state of emergency. The Democratic Regions Party DBP, party governing in most of these municipalities, applied to the Constitutional Court to annul the appointment of trustees in 24 cases. Out of 39 Kurdish-language television and radio stations, 23 were closed on charges of spreading terrorist propaganda.

'No comprehensive plan was developed to address the issue of missing persons, including thorough and independent investigations into alleged past cases of extrajudicial killing by security and law enforcement officers or by the PKK. The recommendations of the UN Special Rapporteur about lack of prosecutions over extrajudicial, summary or arbitrary executions were not addressed. Mass graves were not adequately investigated. In February, the Constitutional Court concluded the case on the 2011 killing of 34 civilians by

²³ European Commission. 'Commission Staff Working Document: Turkey 2016 Report'. 9 November 2016. (Page Page 28-29) https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf. Accessed: 7 June 2017.

the military at Uludere/Roboski and rejected the application of families of victims on grounds that the missing documents were not submitted in time. Victims' families subsequently sent an application to the ECtHR. The statute of limitations for cases of missing persons and extrajudicial killings dating from the 1990s remained in force.²⁴

5.2.3 The USSD's 2016 report stated:

'In two cases, human rights groups alleged that government security forces killed dozens of civilians, including women and children, who had pled for days for safe passage out of besieged basements in districts under curfew in Cizre in Sirnak Province and in Sur in Diyarbakir Province. Witnesses told HRW that, in February [2016] in the Cizre district of Sirnak Province, security forces surrounded three buildings and deliberately killed at least 130 persons who had sheltered in the basements, among them unarmed civilians. The Human Rights Foundation of Turkey (HRF) reported that, during the 79-day-long curfew in Cizre, approximately 200 persons were killed, most of them in the basements referred to by HRW. The Ankara-based HRA reported that 171 bodies, the majority belonging to unarmed civilians, were retrieved from three basements in Cizre after February 5 [2016]. The HRA's president alleged to media that the government used the time between the end of security operations in Cizre and the lifting of the curfew in the area to destroy the basements and, with them, any evidence of wrong-doing. The HRA's claims were based on the testimony of witnesses and victims' family members, as well as the discovery by HRA volunteers of body parts at the site. Separately, the HRA alleged that seven persons were killed in the Sur basement in question in February. The president of the HRF, Sebnem Korur Fincanci, recorded finding a human jawbone in the remains of a Sur basement she was allowed to visit on March 3 [2016].

'The government responded that such allegations were a baseless smear campaign, that it had taken necessary precautions to protect civilians, and the PKK was responsible for any deaths. The government stated that the PKK had prevented civilians from exiting the besieged basements to protect its injured fighters, assigning responsibility to the terrorist group for the alleged civilian deaths. The government declined to allow independent media or international observers to investigate. The government also reported at year's end that the Cizre prosecutor's office was undertaking an investigation of security force actions.

'In several cases during the year, human rights groups alleged the government failed to take adequate steps to protect civilians caught in the conflict between security forces and the PKK. HRW established, through interviews with residents and witnesses, that while many civilian deaths occurred in neighborhoods where the PKK had erected barricades and dug

²⁴ European Commission. 'Commission Staff Working Document: Turkey 2016 Report'. 9 November 2016. (Page Page 28-29) https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf. Accessed: 7 June 2017.

trenches, there were also civilian deaths in areas removed from direct clashes.’²⁵

5.2.4 The Human Rights watch World report 2017 noted:

‘Intense security operations in the period January to May [2016] in towns in the southeast where the city militias linked to the PKK had become entrenched resulted in displacement of up to 400,000 residents. Amidst heavy clashes, hundreds of residents, police, soldiers and PKK-linked militants died.

‘In Cizre security forces’ attacks killed and injured unarmed residents including children and destroyed civilian homes. Around 130 wounded militants and unarmed activists sheltering in three basements surrounded by the security forces were killed in circumstances which the state has neither explained nor effectively investigated.

‘Blanket curfews continued for many months during security operations in Cizre and other towns and neighborhoods, impeding access for journalists and human rights investigators. Authorities demolished large areas of the majority Kurdish cities of Diyarbakır, Şırnak, Nusaybin, and Yüksekova.’²⁶

5.2.5 The Amnesty International Report 2016/17 similarly noted:

‘Until June [2016], the security forces conducted security operations against armed individuals affiliated to the PKK, who had dug trenches and erected barricades in urban areas in the southeast of Turkey. The authorities’ use of extended round-the-clock curfews, a total ban on people leaving their homes, combined with the presence of heavy weaponry including tanks in populated areas, was a disproportionate and abusive response to a serious security concern and may have amounted to collective punishment. Evidence suggests that the security forces’ operated a shoot-to-kill policy against armed individuals that also caused deaths and injuries to unarmed residents and widespread forced displacement.

‘In January [2016], IMC TV journalist Refik Tekin was shot while bringing injured people to receive medical treatment in Cizre, a city under curfew. He continued recording after being shot, apparently from an armoured police vehicle. He was later detained and investigated under terrorism laws.’²⁷

5.2.6 In February 2017 the UN Office of the UN High Commissioner for Human Rights found that “As part of their response to “terrorist activities” allegedly conducted by the PKK, the authorities reportedly initiated security operations in at least 30 urban and a number of rural locations throughout South-East Turkey, which eventually allegedly resulted in a number of persons being killed, displaced or disappeared, as well as in wide-scale destruction of housing stock in the affected areas. The authorities also reportedly imposed

²⁵ United States Department of State, ‘2016 Country Reports on Human Rights Practices – Turkey’, (1g. Abuses in Internal Conflict). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dld=265482> Accessed: 7 June 2017.

²⁶ Human Rights Watch. ‘World Report 2017’. (Turkey). 12 January 2017. <https://www.hrw.org/world-report/2017/country-chapters/turkey>. Accessed: 7 June 2017.

²⁷ Amnesty International. ‘Amnesty International Report 2016/17’. 22 February 2017. <https://www.amnesty.org/download/Documents/POL1048002017ENGLISH.PDF>. Accessed: 7 June 2017.

extended around-the-clock curfews on over 30 towns and neighbourhoods prohibiting any movement without permission for periods of time lasting up to several weeks, thus preventing the evacuation of IDPs trapped in the middle of security operations. Lack of access of emergency services to the sick and wounded, ultimately contributed to the high death toll of the operations. In total some 2,000 people were reportedly killed between July 2015 and August 2016, including local residents, amongst whom women and children, as well as close to 800 members of the security forces.²⁸

5.2.7 The Council of Europe Commissioner of Human Rights noted in its submission to the European Court of Human Rights in April 2017 that:

‘The Commissioner is fully aware of the severe terrorist threat faced by Turkey and recognises the right and duty of the Turkish state to fight against terrorism in all its forms.’

‘The Commissioner also reiterates his findings that the curfews and anti-terrorism operations have been markedly disproportionate. A first aspect of such disproportionality concerns the number of civilians affected, including those displaced for long periods, compared with the number of terrorists “rendered ineffective” (etkisiz hale getirilen).’

‘The Commissioner was also informed – and shown images and video footage – of many cases of racist and chauvinist slogans being painted on buildings by security forces and songs associated with ultra-nationalist movements being played at full volume from armoured vehicles. He regrets that such practices reinforced a widespread perception of the curfews and anti-terrorism operations as “collective punishment” of the civilian population, who were allegedly automatically branded as PKK-sympathisers by the security forces.’

‘Despite the serious allegations of excessive use of force, abuse or misconduct by the security forces, only few, if any, criminal investigations were initiated where members of security forces were identified as suspects, as detailed further below. Here, the Commissioner wishes to stress that the lack of judicial investigations into alleged human rights violations is disheartening and revives concerns about the systemic problem of impunity enjoyed by the security forces during the fight against terrorism in South-Eastern Turkey in the 1990’s, which has been widely attested in the Court’s case-law.’

‘The Commissioner finds the number of criminal investigations initiated by judicial authorities disheartening compared to the large number and gravity of allegations concerning the excessive use of force and misconduct of security forces.’²⁹

²⁸ OHCHR - UN Office of the High Commissioner for Human Rights: Report on the human rights situation in South-East Turkey; July 2015 to December 2016, February 2017, http://www.ecoi.net/file_upload/1226_1489578695_ohchr-south-east-turkeyreport-10march2017.pdf, Accessed: 4 July 2017

²⁹ CoE-CommDH - Council of Europe - Commissioner for Human Rights, Third party intervention by the Council of Europe Commissioner for Human Rights under Article 36, paragraph 3, of the European Convention on Human Rights [CommDH(2017)13] (paras. 7, 13, 16, 17 and 26), 25 April 2017, http://www.ecoi.net/file_upload/1226_1494315079_commdh-2017-13-thirdpartyintervention-applications-v-turkey-en-docx.pdf. Accessed: 11 July 2017

5.3 Immunity from prosecution

- 5.3.1 Human Rights Watch's world report 2017 noted 'In June [2016], the government introduced a law making any prosecution of the military and public officials, including the police, engaged in counterterrorism operations dependent on administrative permission. The law effectively grants immunity from prosecution to the security forces for abuses committed in the recent operations in the southeast in violation of Turkey's duty to investigate such abuses.'³⁰

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6. Anti-terror law

6.1 Law 3713 on the Fight against Terrorism

- 6.1.1 According to the online legislative database, Legislation Online:

'The Turkish legislation regarding terrorism and terrorist offences dates back to 1991, in response to the activities of separatist terrorist organisations in Turkey. Since then, Law 3713 on the Fight against Terrorism has since been subject to many amendments and partial annulments of the Constitutional Court. The latest major amendment has been realised in 2006, changing the definition of many terrorist and terrorism-related offences, as well as introducing new investigative measures regarding the prosecution of suspected terrorists. Although all kinds of national and international terrorist activities fall under the scope of the anti-terrorism legislation of Turkey, the main focus remains on separatist activities.'³¹

- 6.1.2 Article 1 of the Law on the Fight against Terrorism defines terrorism as:

'Any criminal action conducted by one or more persons belonging to an organisation with the aim of changing the attributes of the Republic as specified in the Constitution, the political, legal, social, secular or economic system, damaging the indivisible unity of the State with its territory and nation, jeopardizing the existence of the Turkish State and the Republic, enfeebling, destroying or seizing the State authority, eliminating basic rights and freedoms, damaging the internal and external security of the State, the public order or general health, is defined as terrorism.'³²

- 6.1.3 An English translation of the [Law 3713 on the Fight Against Terrorism \(1991, amended 2010\)](#) can be found on Legislation Online.³³

- 6.1.4 The January 2015 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), noted:

³⁰ Human Rights Watch. 'World Report 2017'. (Turkey). 12 January 2017. <https://www.hrw.org/world-report/2017/country-chapters/turkey>. Accessed: 7 June 2017.

³¹ Legislation Online. 'Counter-Terrorism: Turkey'. January 2011. <http://www.legislationline.org/en/topics/country/50/topic/5> Accessed: 9 June 2017.

³² Legislation Online. 'Law on Fight Against Terrorism (1991, amended 2010)'. Undated. http://www.legislationline.org/download/action/download/id/3727/file/Turkey_anti_terr_1991_am2010_en.pdf. Accessed: 9 June 2017.

³³ Legislation Online. 'Law on Fight Against Terrorism (1991, amended 2010)'. Undated. http://www.legislationline.org/download/action/download/id/3727/file/Turkey_anti_terr_1991_am2010_en.pdf. Accessed: 9 June 2017.

[...] the CPT has serious misgivings about certain amendments which were made in 2006 to the 1991 Law on the Prevention of Terrorism [Law on the Fight against Terrorism] (Law No.3713). According to Section 10 (b), persons who are suspected of having committed a terrorism related offence may be denied access to a lawyer during the initial 24 hours of custody (by order of a public prosecutor). Further, Section 10 (e) of the law stipulates that, if there is evidence that the defence lawyer might be “liaising” between the detainee and a terrorist organisation, at the request of the prosecutor and following a decision by a judge, an officer can be present during meetings between the suspect and his lawyer.’³⁴

- 6.1.5 In its 2016 Progress Report on Turkey (which covered the period from October 2015 to September 2016), the European Commission reported that: ‘The anti-terror law is not in line with the *acquis* [the body of common rights and obligations that is binding on all the EU member states] with regard to its scope and definitions and its application raises serious fundamental rights concerns. Both the criminal and anti-terror legislation should be aligned with ECtHR case-law, without reducing the capacity of Turkey to fight terrorism. The proportionality principle must be observed in practice.’³⁵
- 6.1.6 The principal criticism of the scope of the scope and definitions in the anti-terror law is that, as explained in the USSD’s 2014 report: ‘[t]he law [...] does not distinguish between persons who incited violence, those who are alleged to have supported the use of violence but did not use it themselves, and those who rejected violence but sympathized with some or all of the philosophical goals of various political movements.’³⁶

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6.2 Use of anti-terror law

- 6.2.1 In its submission for the 2015 Universal Periodic Review of Turkey, the UN Country Team (UNCT) in Turkey stated: ‘With respect to counter-terrorism, there is continued concern about the long-standing, sweeping use of anti-terrorist clauses for the politically motivated prosecution of large numbers of persons including politicians, human rights defenders and journalists, in particular for alleged “membership of a terrorist organization”.’³⁷

- 6.2.2 The USSD’s 2016 report stated:

‘Despite limits placed on the use of the antiterror law during 2013 and 2014 by the Fourth and Fifth Judicial Packages, prosecutors continued to use a broad definition of terrorism and threats to national security to launch

³⁴ Council of Europe. ‘Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 21 June 2013,’ dated 15 January 2015 (paragraph 27). <https://rm.coe.int/1680698344> Accessed: 7 June 2017.

³⁵ European Commission. ‘Commission Staff Working Document: Turkey 2016 Report’. 9 November 2016. (Page 6) https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf. Accessed: 2 June 2017.

³⁶ United States Department of State. ‘Country Reports on Human Rights Practices for 2014,’ Turkey, dated 25 June 2015 (Section 1.e Political Prisoners and Detainees). <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236586> Accessed: 9 June 2017.

³⁷ United Nations. ‘Universal Periodic Review of Turkey 2015,’ UNCT Submission, 2015 (paragraphs 37 – 38). <http://www.refworld.org/docid/54c109084.html> Accessed: 9 June 2017.

criminal charges against a broad range of defendants, including more than 140 journalists and hundreds of mostly pro-Kurdish politicians, party officers, and supporters. Notable detentions and arrests during the year included Peoples' Democratic Party (HDP) cochairs Selahattin Demirtas and Figen Yuksekdag, and other HDP parliamentarians in November [2016], as well as several Democratic Regions Party (DBP) local mayors in the months following the coup attempt. At year's end approximately 70 mayors had been removed from office, detained, or arrested for allegedly supporting terrorism. Antiterror laws were broadly used against Kurds, suspected PKK sympathizers, and alleged members of the Gulen movement. Human rights groups alleged that many detainees had no substantial link to terrorism and were detained to weaken the pro-Kurdish HDP and DBP or to silence critical voices. Authorities used both the antiterror laws and increased powers accorded to the government under the state of emergency to detain individuals and seize assets, including those of media companies, charities, and businesses, of pro-Kurdish groups accused of supporting the PKK, and of individuals alleged to be associated with the Gulen movement.' ³⁸

- 6.2.3 For further information on the use of the anti-terror law against Kurdish political figures see the country policy and information note on [Turkey: Kurdish political parties](#).

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6.3 Numbers of arrests and detentions

- 6.3.1 The USSD's 2015 Terrorism Report stated:

'According to Turkey's semi-official news agency, the Anadolu Agency, from July 24 to November 20 [2015], the Turkish National Police (TNP) carried out counterterrorism operations against 7,303 suspects belonging to PKK, ISIL, and other terrorist organizations. Of the 5,624 PKK suspects detained and officially questioned, 1,602 were arrested, while 2,908 were released by judicial order and 1,114 were released under judicial control. Of the 1,132 ISIL suspects detained, 346, including 63 non-Turkish foreign nationals were arrested, while 588 were released by judicial order and 198 were released on judicial control. Of the 386 DHKP/C, MLKP, and other terrorist suspects detained, 122 suspects were arrested, while 167 were released by judicial order and 97 were released on judicial control.' ³⁹

- 6.3.2 The USSD's 2016 report stated:

'The number of political prisoners was not a matter of public record and remained the subject of debate at year's end. In March [2016] media reported that 6,592 prison inmates were alleged members of the PKK, while 518 were alleged members of Da'esh and 366 were alleged members of the Gulen movement. Some observers assessed that many imprisoned after the failed coup attempt could be considered political prisoners, a charge

³⁸ United States Department of State, '2016 Country Reports on Human Rights Practices – Turkey', (Section 1e e. Denial of Fair Public Trial). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265482> Accessed: 2 June 2017.

³⁹ United States Department of State. 'Country Reports on Terrorism 2015'. (Page 157). 2 June 2016. <https://www.state.gov/documents/organization/258249.pdf> Accessed: 6 June 2017.

disputed by the government. The Justice Ministry reported that, as of October 20 [2016], there were 47,512 prisoners in detention on terror-related charges.’⁴⁰

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6.4 Fair trial

6.4.1 The USSD’s 2016 report stated:

‘The state of emergency declared following the July 15 [2016] coup attempt provided the government with expanded authorities to detain individuals for up to 30 days without charge and deny access to counsel for up to five days. Decrees gave prosecutors the right to suspend lawyer-client privilege, observe and record conversations between the accused and their legal counsel, and intervene in the selection of defendants’ legal counsel. In October [2016] the government used a state-of-emergency decree to reestablish a 24-hour limit for which detainees could be held without access to legal counsel, but legal contacts asserted at year’s end that the five-day rule was still being applied. Following the extension of the state of emergency in October [2016], these provisions remained in place.

‘Private attorneys and human rights monitors reported irregular implementation of laws protecting the right to a fair trial, particularly with respect to attorney access. Prior to the July 15 [2016] coup attempt, human rights groups alleged that authorities frequently denied detainees access to an attorney in terrorism-related cases until security forces had interrogated the suspect.’⁴¹

6.4.2 The same report further noted that:

‘The law provides for an independent judiciary, but the judiciary remained subject to influence, particularly from the executive branch. Parliament in early July approved legislation restructuring two of the country’s high courts, the Court of Appeals and the Council of State. Among other actions the legislation reduced the number of judges on each court and imposed 12-year term limits on newly appointed judges. The government claimed the reform would streamline the judiciary constructively. Critics charged that the move increased executive influence over the judiciary.’

‘Although the constitution provides tenure for judges, the Supreme Board of Judges and Prosecutors (HSYK) controls the careers of judges and prosecutors through appointments, transfers, promotions, expulsions, and reprimands. Broad leeway granted to prosecutors and judges, challenges the requirement to remain impartial, and the judges’ inclination to protect the state over the individual contributed to inconsistent application of criminal laws.’

⁴⁰ United States Department of State, ‘2016 Country Reports on Human Rights Practices – Turkey’, (Section 1e political prisoners and detainees). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265482> Accessed: 2 June 2017.

⁴¹ United States Department of State, ‘2016 Country Reports on Human Rights Practices’, (Section 1d. Arrest procedures and treatment of detainees). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265482> Accessed: 9 June 2017.

‘The constitution provides for the right to a fair public trial. Increasing executive interference over the judiciary and actions taken by the government under the state of emergency jeopardized this right.’

‘The European Commission’s current year progress report and other observers noted that indictments often lacked logical reasoning or evidentiary support.’⁴²

6.4.3 In its 2016 Progress Report on Turkey (which covered the period from October 2015 to September 2016), the European Commission reported that:

‘There has been backsliding in the past year, in particular with regard to the independence of the judiciary. The extensive changes to the structures and composition of high courts are of serious concern and are not in line with European standards. Judges and prosecutors continued to be removed from their profession and in some cases were arrested, on allegations of conspiring with the Gülen movement. This situation worsened further after the July coup attempt, following which one fifth of the judges and prosecutors were dismissed and saw their assets frozen.’⁴³

6.4.4 The same source stated:

‘Some aspects of procedural rights are guaranteed by law, including legal aid and the right to translation and interpretation in criminal matters, but the legislation needs to be aligned with European standards. Furthermore, these rights have been severely violated in practice, in particular in the context of anti-terrorism operations and in the wake of the attempted coup, when access to a lawyer was in many cases not guaranteed and information on charges not always communicated in due time. It is a concern that the decrees adopted under the state of emergency provide for important restrictions to the right of defence, such as limitations to confidential communication between pre-trial detainees and lawyers through recording of the meetings, as this presents risks for the right to a fair trial and leaves detainees vulnerable to ill-treatment... Legal aid is provided by law in listed cases and access to it needs to be broadened. Turkey should consider adopting specific legislation on the victims’ rights.’⁴⁴

6.4.5 The November 2016 EASO Report, citing various sources, stated:

‘On the other hand, court decisions overturning convictions and arrests of people accused of criticism and plotting a coup against Erdogan were hailed in the media as ‘significant legal developments in recent Turkish history’ but ‘did little to do away with the distrust of ordinary citizens toward the legal system in this country’. Media reports noted that ‘it is clear that politically motivated judicial aberrations are still continuing today, especially with

⁴² United States Department of State, ‘2016 Country Reports on Human Rights Practices’, (Section 1e. Denial of Fair Public Trial). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265482> Accessed: 9 June 2017.

⁴³ European Commission. ‘Commission Staff Working Document: Turkey 2016 Report’. 9 November 2016. (Page 6) https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf. Accessed: 2 June 2017.

⁴⁴ European Commission. ‘Commission Staff Working Document: Turkey 2016 Report’. 9 November 2016. (Page 76) https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf. Accessed: 9 June 2017.

regard to constitutionally protected rights, such as freedom of the press and freedom of expression'.⁴⁵

6.4.6 BBC News reporting on one terrorism trial held in November 2016 stated:

'A Turkish court has acquitted a German-born former international footballer, Deniz Naki, who was charged with promoting the Kurdish PKK rebel cause.

'[he] was prosecuted for a message he posted on Facebook after scoring the winning goal for the Turkish club Amed SK, in a crucial match in January.

'He dedicated that victory to victims of the Kurdish conflict. He is Alevi-Kurdish and moved to Turkey in 2013.

'He was accused of spreading terrorist propaganda for the banned PKK. [...]

'Germany's Bild daily reported that the court session lasted just 35 minutes and that even the state prosecutor called for the case to be terminated.

'The charge could have resulted in Naki getting five years in jail. He argued that his Facebook post was intended as a message of peace.'⁴⁶

6.4.7 Anadolu Agency News reporting in March 2017 the outcome of another terrorism trial stated:

'A court sentenced 111 members of an umbrella group that includes the PKK/KCK to sentences of up to 21 years on Tuesday [28 March 2017].

'The case against the KCK defendants began in 2010. Initially, 191 defendants were accused of offences ranging from terrorism to holding banned protests.

'A lower court dismissed the charges against 43 before the trial while a further 37, including eight current lawmakers from the Peoples' Democratic Party (HDP), were released during the hearings.

'Most of those convicted were found guilty of membership of a terrorist organization by Diyarbakir's 2nd High Criminal Court in southeast Turkey.

'Among those jailed for 21 years was the co-chairman of the Democratic Regions Party (DBP), the regional-level sister party of the HDP. Kamuran Yuksek was convicted of controlling an armed terrorist group.

'Hatip Dicle, former lawmaker from the now-defunct Democracy Party, was sentenced to nine years for membership of armed terrorist organization.

'Ahmet Turk, the former BDP mayor of Mardin in southeast Turkey, was jailed for 15 months for staging a demonstration without permission.

'Of the remaining defendants, 16 were sentenced to 21 years.'⁴⁷

⁴⁵ European Asylum Support Office. 'EASO Country of Origin Information Report Turkey Country Focus'. (Page 52 – 53). November 2016. http://www.ecoi.net/file_upload/2162_1479371775_easo-coi-turkey-201611.pdf Accessed: 9 June 2017.

⁴⁶ BBC News. 'Turkish court acquits German footballer Naki in Kurdish case'. 8 November 2016. <http://www.bbc.co.uk/news/world-europe-37908775>. Accessed: 6 June 2017.

⁴⁷ Anadolu Agency News. '21-year sentences in Turkish terror-related trial.' 28 March 2017. <http://aa.com.tr/en/turkey/21-year-sentences-in-turkish-terror-related-trial/781779>. Accessed: 9 June 2017.

- 6.4.8 For further information on the courts structure and effectiveness see the country policy and information note on [Turkey: Background information including actors of protection and internal relocation](#).

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6.5 Conditions in detention

- 6.5.1 The USSD's 2016 report stated:

'Credible media reports claimed that some persons jailed on terror charges were subject to a variety of abuses, including long solitary confinements, severe limitations on outdoor exercise and out-of-cell activity, inability to engage in professional work, denial of access to the library and media, slow medical attention, and in some cases the denial of medical treatment. Media also alleged that visitors to prisoners accused of terror-related crimes faced abuse, including limited access to loved ones, strip searches, and degrading treatment by prison guards.'⁴⁸

- 6.5.2 The Human Rights Watch World report 2017 noted:

'The weakening of safeguards against abuse in detention under the state of emergency was accompanied by increased reports of torture and ill-treatment in police detention, such as beating and stripping detainees, use of prolonged stress positions, and threats of rape, as well as threats to lawyers and interference with medical examinations. While many allegations arose in relation to members of the military and police detained in connection with the coup, they were not the only groups who reported ill-treatment post-coup, and Kurdish detainees in the southeast had reported similar abuses over the past year.'⁴⁹

- 6.5.3 The Amnesty International Report 2016/17 noted: 'There was an increase in cases of torture and other ill-treatment reported in police detention, from curfew areas in southeast Turkey and then more markedly in Ankara and Istanbul in the immediate aftermath of the coup attempt. Investigations into abuses were ineffective.'⁵⁰

- 6.5.4 In its 2016 Progress Report on Turkey (which covered the period from October 2015 to September 2016), the European Commission reported that:

'There was backsliding on the prevention of torture and ill-treatment, especially in the context of counter-terrorism operations in the south-east. Allegations of torture and ill-treatment are not properly investigated or punished, with few, usually overly lenient, sanctions given. There continues to be a need to ensure prompt impartial and effective investigation of all cases of alleged extrajudicial killings by security and law enforcement officers, including in the context of counter-terrorism operations in the south-east. Impunity remains one of the core problems. Turkey needs to align its

⁴⁸ United States Department of State, '2016 Country Reports on Human Rights Practices', (Section 1c. Prison and Detention Center Conditions). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrprt/humanrightsreport/index.htm?year=2016&dliid=265482> Accessed: 9 June 2017.

⁴⁹ Human Rights Watch. 'World Report 2017'. (Turkey). 12 January 2017. <https://www.hrw.org/world-report/2017/country-chapters/turkey>. Accessed: 7 June 2017.

⁵⁰ Amnesty International. 'Amnesty International Report 2016/17'. 22 February 2017. <https://www.amnesty.org/download/Documents/POL1048002017ENGLISH.PDF>. Accessed: 7 June 2017.

legislation on the prevention of torture and ill-treatment with the ECHR and with ECtHR case-law. The National Human Rights and Equality Institution has taken over the role of national preventive mechanism, however, the institution has yet to become operational.⁵¹

- 6.5.5 However the United Nations Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment who visited Turkey from 27 November to 2 December 2016 found that

‘For certain phases of detention, we ... received numerous allegations of torture and other ill-treatment ... The forensic expert who accompanied me throughout the visit, conducted a number of medical examinations of inmates, some of which confirmed physical injuries consistent with the testimonies we received...

‘Testimonies received from inmates and their lawyers suggest that, in the days and weeks following the failed coup, torture and other forms of ill-treatment were widespread, particularly at the time of the arrest by police and gendarmerie officials or military forces and subsequent detention in police or gendarmerie lock-ups as well as in unofficial detention locations. Many of my interlocutors reported that law enforcement officials felt free to harass, intimidate and insult anyone perceived as opposing the Government or its authority, in all impunity. After this initial phase marked by arbitrariness, however, the ill-treatment appears to have ceased. Apart from occasional verbal threats, my team received no allegations and collected no evidence of currently ongoing torture or ill-treatment with respect to those inmates, male or female, who were arrested for reasons related to the attempted coup.

‘The majority of those reporting previously to have been subjected to torture or ill-treatment said that they did not file complaints to the authorities for fear of retaliation against them or their families and because of a deep distrust in the independence of the prosecution and the judiciary and, consequently, in their willingness or ability to adequately investigate and adjudicate their claims. Upon my request, the Turkish authorities agreed to provide statistical data on individual complaints filed for alleged torture or other forms of ill-treatment. While I have not yet received and analysed all the data requested, preliminary information gathered seems to suggest that the small number of investigations carried out by the authorities so far is grossly disproportionate to the alleged frequency of violations.’⁵²

- 6.5.6 For further information on allegations of torture and conditions in detention see the country policy and information notes on [Turkey: Gülenism](#), [Turkey: Kurdish political parties](#) and [Turkey: Prison conditions](#).

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⁵¹ European Commission. ‘Commission Staff Working Document: Turkey 2016 Report’. 9 November 2016. (Page 70) https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf. Accessed: 9 June 2017.

⁵² Office of the United Nations High Commissioner for Human Rights (OHCHR). ‘Preliminary observations and recommendations of the United Nations Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, Mr Nils Melzer on the official visit to Turkey – 27 November to 2 December 2016,’ dated 2 December 2016. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20976&LangID=E> Accessed: 9 June 2017.

Version control and contacts

Contacts

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Clearance

Below is information on when this note was cleared:

- version **2.0**
- valid from **2 August 2017**

Changes from last version of this note

Update of country information.

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